

22536. Misbranding of canned pitted cherries. U. S. v. 175 Cases, et al., of Canned Pitted Cherries. Decrees of condemnation. Product released under bond to be relabeled. (F. & D. nos. 32555, 32564, 32584, 32606. Sample nos. 38835-A, 38837-A, 38842-A, 52638-A, 52643-A, 52649-A.)

These cases involved shipments of canned pitted cherries which contained excessive pits, and which were not labeled to indicate that they were substandard.

On April 18, April 20, and April 25, 1934, the United States attorney for the Southern District of California, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 1,560 cases of canned pitted cherries, in various lots at Los Angeles, Long Beach, and Wilmington, Calif., alleging that the article had been shipped in interstate commerce, between the dates of September 16, 1933, and March 22, 1934, by the Geneva Preserving Co., from Geneva, N. Y., and charging misbranding in violation of the Food and Drugs Act as amended. A portion of the article was labeled: "Ribbon Brand Cherries in Water Red Sour Pitted Cherries Geneva Preserving Co. Geneva, * * * N. Y." The remainder was labeled: "Iris Brand Water Pack Fancy Pitted Red Sour Cherries * * * Haas Baruch & Co., Los Angeles, Calif., Distributors."

It was alleged in the libels that the article was misbranded in that it was canned food and fell below the standard of quality and condition promulgated by the Secretary of Agriculture, because it consisted of partially pitted cherries, and its package or label did not bear a plain and conspicuous statement prescribed by regulation of this Department, indicating that it fell below such standard.

On May 29, 1934, the Geneva Preserving Co., claimant, having admitted the allegations of the libels, judgments of condemnation were entered and it was ordered by the court that the product be released to the claimant upon the execution of bonds totaling \$6,500, conditioned that it be relabeled. On June 19, 1934, the product having been relabeled, final decree was entered ordering the bonds exonerated upon payment of costs.

M. L. WILSON, *Acting Secretary of Agriculture.*

22537. Adulteration of macaroni and spaghetti. U. S. v. 60 Packages of Macaroni, et al. Products ordered destroyed. (F. & D. nos. 32495, 32559. Sample nos. 61599-A, 66800-A, 66801-A.)

These cases involved shipments of macaroni and spaghetti which contained no egg but which were artificially colored to simulate the appearance of products containing egg.

On April 20 and April 23, 1934, the United States attorney for the District of Montana, acting upon reports by the Secretary of Agriculture, filed in the district court libels praying seizure and condemnation of 7 boxes of macaroni and 26 boxes of spaghetti at Great Falls, Mont., and 60 packages of macaroni at Havre, Mont., alleging that the articles had been shipped in interstate commerce, in part on or about February 16, 1934, and in part on or about March 7, 1934, by the Western Macaroni Manufacturing Co., Inc., from Salt Lake City, Utah, and charging adulteration in violation of the Food and Drugs Act. The articles were labeled in part: "Ready Cut Macaroni [or "Spaghetti"] Almo Brand Manufactured by Western Macaroni Mfg. Co., Inc., Salt Lake City, Utah."

It was alleged in the libels that the articles were adulterated in that they contained a yellow coloring simulating egg, but no egg was present.

No claimant appeared for the property. On May 23, 1934, judgment was entered in the case instituted at Great Falls ordering that the products be destroyed unless taken down under bond within 10 days. On July 2, 1934, they were ordered destroyed. On July 21, 1934, judgment of condemnation and destruction was entered in the remaining case.

M. L. WILSON, *Acting Secretary of Agriculture.*

22538. Adulteration and misbranding of potatoes. U. S. v. 360 Sacks of Potatoes. Default decree of condemnation. Product delivered to charitable associations. (F. & D. no. 32569. Sample no. 66812-A.)

This case involved a shipment of potatoes which were below the grade indicated on the label because of excessive grade defects.

On April 19, 1934, the United States attorney for the District of Colorado, acting upon a report by the Secretary of Agriculture, filed in the district court a libel praying seizure and condemnation of 360 sacks of potatoes at Denver, Colo., consigned by the Idaho Sales Co., alleging that the article had been shipped in interstate commerce, on or about April 11, 1934, from Falls